



U.S. Department of Justice
Civil Division

April 2, 2025

By ECF

Honorable Michael E. Farbiarz
United States District Judge
U.S. Post Office & Courthouse
Federal Square
Newark, New Jersey 07101

Re: ***Khalil v. Joyce, et al.*, Civ. Act. No. 25-1963 (MEF) (MAH)**
Government's Response to Court's Order (ECF Nos. 153, 154)

Dear Judge Farbiarz:

In response to this Court's inquiry (ECF No. 153, at 67), the Government believes that an interlocutory appeal is appropriate. The issue presented is of tremendous and recurring importance. It is one (at minimum) "as to which there is substantial ground for difference of opinion," as the Court's own extended analysis makes plain. 28 U.S.C. § 1292(b). And resolving this issue in the Government's favor would "materially advance the ultimate termination of the litigation," because it goes to this Court's jurisdiction. *Id.* By the same token, declining to certify an interlocutory appeal would hazard judicial economy, because all of the Court's subsequent decisions may end up resting upon a jurisdictional premise that an appellate court may later correct. To help facilitate the Court's decision here, the Government has already obtained authorization from the Acting Solicitor General to seek an interlocutory appeal in this matter, and would apply for one from the Third Circuit should this Court so certify. *See id.* As for the Court's other inquiry as to waiver (ECF No. 153, at 67, ECF No. 154), the Government does not waive any future challenges to the Court's jurisdiction and venue in this matter.

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Respectfully submitted,

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